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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**DECLARATION OF GEOFFREY L.
BERMAN IN SUPPORT OF
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
THE PALM HARBOR ONE LOAN**

Hearing Date: August 30, 2011

Hearing Time: 10:30 a.m.

Estimated Time for Hearing: 10 minutes

Geoffrey L. Berman declares under penalty of perjury:

1. I am an adult person competent to testify in court.
2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.
3. I am the Trustee of the USACM Liquidating Trust ("USACM Trust"), which is an entity created by the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization ("Plan"), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.

4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition and development loan to a borrower identified as “Palm Harbor One, LLC.” A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The total loan amount proposed was \$29,000,000. The Offer Sheet described the investment as a “First Trust Deed Investment” and noted that the investment would be secured by a first deed of trust on “approximately 20 acres with two adjacent apartment complexes with a total of 432 units in Palm Harbor, Florida.” The loan to value ratio was 73% based on an October 17, 2005 appraisal from Hendry Real Estate Advisors. Pursuant to the Offer Sheet, the loan was intended for Borrower to purchase the apartment complexes and convert them into condominium units.

5. On November 28, 2005, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Deed of Trust” (the “Note”) and a Loan Agreement. The Note and Loan Agreement provided for a loan of \$29,000,000, with an initial loan in the amount of \$26,200,000. The Note was secured by a “Mortgage, Security Agreement and Assignment of Rents” from the Borrower in favor of the Direct Lenders that was recorded in the official records of Pinellas County, Florida on December 16, 2005 at Instrument Number 2005502422, as were subsequent amendments to the Deed of Trust to secure subsequent advances and add additional beneficiaries.

6. The Note was also supported by an Unconditional Guaranty signed by Joseph Lilly, who, pursuant to the Offer Sheet, had a “reported net worth of approximately \$8,000,000 as of August 15, 2005

7. The USACM “Loan Summary” dated February 28, 2007 and filed in this case shows that Borrower was “Performing” on the Note as of February 28, 2007.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Dated: July 10, 2011

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4 /s/ Geoffrey L. Berman

Geoffrey L. Berman

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7 Copy of the foregoing (without exhibits)
8 Mailed by First Class postage prepaid
9 U.S. Mail on July 11, 2011 to the
Investors in the Palm Harbor One
Loan listed on Exhibit A.

10 s/ Matt Burns

11 Matt Burns
12 Lewis and Roca LLP
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